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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,592	12/08/2003	Italo Corzani	CM2574C	2123

27752 7590 03/23/2005

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CINCINNATI, OH 45224

EXAMINER

RAYFORD, SANDRA M

ART UNIT PAPER NUMBER

1772

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/730,592	<b>Applicant(s)</b> CORZANI ET AL	
	<b>Examiner</b> Sandra M. Nolan	<b>Art Unit</b> 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claims***

1. Pursuant to entry of amendment in the 12 January 2005 response ("the last response") to the 12 October 2004 office action ("the last office action"), claims 1-13 are pending.

### ***Comment re: Claim Language***

2. It is noted that claim 1, line 1 recites "multiplayer" where multilayer appears to be appropriate.

### ***Rejections Withdrawn***

3. The 35 USC 103 rejection of claims 1-9 as unpatentable over Kim (US 5,505,956), as set out in section 5 of the last office action, is withdrawn in view of applicants' amendments in the last response.

4. The 35 USC 103 rejection of claims 1-13 as unpatentable over Horn (US 5,447,783) as set out in section 6 of the last office action, is withdrawn in view of applicants' amendments in the last response.

### ***New Rejection***

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gore et al (GB 2024100A) in view of JP 2001064382A (based on its Derwent abstract).

Gore was supplied to the USPTO by applicants. It teaches layered articles having a layer of gas permeable, liquid impermeable material (page 2, lines 62-63) and a layer of polyurethane (page 2, lines 50-52). Both layers have moisture vapor transmission rates (MVTR's) exceeding 1,000 g/m<sup>2</sup>/day (page 7, claim 1).

Gore's "g/m<sup>2</sup>/day" is deemed equivalent to applicants' "g/m<sup>2</sup>.24h".

Gore fails to teach polyoxyalkylene esters as plasticizers for its polyurethanes.

JP 2002064382A (abstract) teaches that urethane resins (fifth line from bottom of page 1 of the abstract) can be plasticized (third line from the bottom) using esters of polyoxyalkylene alcohols and carboxylic acids. The plasticized polyurethanes are used in films (page 2, second line) that do not fog or discolor (page 2, Advantage section).

Polyoxyalkylene alcohols are known in the polymer art to be hydrophilic. Their esters would be expected to be hydrophilic as well.

The references are analogous because they both teach polyurethanes.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the plasticizers of the Japanese abstract in the polyurethane-containing layer of the Gore articles in order to render them suitable as films.

The motivation to employ the plasticizers of the Japanese abstract in the polyurethane-containing layer of the Gore articles is found on the second page of the Japanese abstract, where it teaches that its polyurethane/plasticizer blends are useful in films that do not fog or discolor.

It is deemed desirable to make articles using films that do not fog or discolor in order to maximize consumer acceptance.

The use of the multilayer articles suggested by the combined references as/in gloves is deemed a matter of intended use and does not render claims 10-13 patentable.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Final Rejection***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Conclusion***

Any inquiry concerning this communication should be addressed to Sandra M. Nolan-Rayford, at telephone number 571/272-1495. She can be reached Monday through Thursday, from 6:30 am to 4:00 pm, ET.

If attempts to reach the examiner are unsuccessful, contact her supervisor, Harold Pyon, at 571/272-1498.

The fax number for patent application documents is 703/872-9306.

*S.M. Nolan-Rayford*  
S. M. Nolan-Rayford  
Primary Examiner  
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